

Nadler to Bush: Clean Up WTC Contamination

Thursday, 28 October 2004

WASHINGTON, D.C. - Today, Congressman Jerrold Nadler (D-NY) issued the following letter to President Bush asking him to order the Environmental Protection Agency (EPA) to follow its legally mandated procedures to clean up hazardous contamination from the terrorist attacks in New York, and adequately protect the public health and environment. The letter follows recent pleas to EPA by community groups frustrated by the agency's failure to act three years after the terrorist attack. Despite the continued presence of contamination in buildings such as the Deutsche Bank across from the WTC site, and the creation by EPA of a technical review panel over one year ago, the agency has yet to perform a comprehensive testing and clean up program adequate to protect public health.

October 29, 2004

The Honorable George W. Bush

President of the United States

The White House

Washington, D.C. 20500

Dear Mr. President:

As you know, on September 11, 2001, terrorists attacked the World Trade Center in my district. When the Twin Towers collapsed, thousands of tons of hazardous materials were released into the environment, such as asbestos, lead, mercury and PCBs. These hazardous substances were not only present at the site, exposing the heroes and rescue workers, but also contaminated areas of Lower Manhattan, Brooklyn, and possibly even Northern New Jersey.

In the beginning of 2002, I initiated an investigation with the Environmental Protection Agency (EPA) National Hazardous Waste Ombudsman, and chaired hearings to determine the level of contamination, areas of impact, risks to the affected communities, and actions that needed to be taken to protect citizens from the environmental effects of the terrorist attack. We also documented EPA's legal responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), the Resource Conservation and Recovery Act (RCRA), and federal counter-terrorism laws. Under Presidential Decision Directive 62 signed by President Clinton in 1998, EPA is mandated to clean up buildings contaminated in a terrorist attack. Your Administration maintained this policy in the National Strategy for Homeland Security issued in July 2002, which reiterates that EPA is "responsible for decontamination of buildings and affected neighborhoods" following a major incident.

The most shocking conclusion that we uncovered was that starting two days after the attack, your EPA initiated a strategy of misleading the public and providing false assurances about air quality following the 9/11 terrorist attacks, and that the EPA refused to comply with its mandate under the law to clean up contamination resulting from a terrorist attack. This situation continues to this day, three years after the attack by al Qaeda on New York.

In August of 2003, the EPA Inspector General (IG) released a report confirming conclusions that we developed over a year earlier, namely that the EPA lied to the public, and that the agency was not adequately doing its job under the law. The IG Report found that a limited, unscientific cleanup of selected sites performed by EPA as a result of our investigation was not adequate to comply with federal laws that govern protection of the public health and environment. The IG Report also found troubling evidence that the White House instructed the EPA to downplay post-9/11 air quality

and public health concerns in New York City.

Following the release of the IG Report, your EPA created a "Blue Ribbon Panel" to allegedly correct some of the problems identified with EPA's response to the terrorist attack. That panel has now operated under the direction of the EPA for a year, and has yet to take any substantive actions to protect the public health and environment. Meanwhile, more than three years after the attack, rescue workers in New York and from other jurisdictions in the country who responded to the attacks, are now suffering serious health effects as a result of exposure to hazardous substances at the site. A recent General Accounting Office (GAO) report documented that ninety percent of the firefighters and EMS workers at the site had respiratory ailments. The GAO Report also found that the people living and working in Lower Manhattan experienced health effects similar to first responders, and that almost 75% of respondents living near the WTC site experienced respiratory symptoms. The EPA has not taken adequate action to decontaminate indoor spaces consistent with federal law, nor has the federal government assisted people exposed with actual medical treatment.

Given these circumstances, the EPA has received numerous pleadings from the community, myself and other elected officials to do its job under the law and protect the public health and environment. Those pleas continue to fall on deaf ears. Correspondence to the Administration remain unanswered, FOIA requests remain unfulfilled, and promises made to provide information before Congressional committees have not been kept. I have enclosed for your review the most recent letter from numerous community groups calling upon the EPA to conduct proper environmental testing and cleanup of areas contaminated by WTC dust. I respectfully request that you respond to this letter, and provide the victims of the terrorist attack in New York the actions and answers they deserve.

What is also troubling is that the EPA is refusing to carry out its mandate as the lead agency responsible for decontaminating buildings contaminated in a terrorist attack as it relates to the Deutsche Bank building at 130 Liberty Street next to the WTC site. When a section of 2 World Trade Center collapsed through 15 stories of the Deutsche Bank, massive quantities of WTC dust and smoke poured through the gash and through imploded windows, permeating the entire structure. To assess the extent of damage and contamination, Deutsche Bank spent \$33 million on a ten-month engineering and environmental study of the entire 41-story building. These environmental tests found levels of contamination known to be hazardous to human health, including concentrations of asbestos almost 150,000 times the level considered appropriate. I have enclosed for your review a written response from EPA on this matter, indicating that the agency will not manage the cleanup at the site, but rather will leave that responsibility to the building owner.

Is the EPA's dereliction of duty in response to the September 11 terrorist attack your policy? If not, I am asking you, as Commander-in-Chief, to order EPA to obey the law and perform its mandated duties to respond to the terrorist attacks. Unless the American people can trust the federal government to be honest, and to carry out its terrorism response authority, our national security is at risk, particularly if another terrorist attack should occur on American soil.

Thank you for attention to this matter. I look forward to a prompt and substantive response.

Sincerely,

Jerrold Nadler

Member of Congress

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